Complete Carrier Services, Inc. *and* International Brotherhood of Teamsters, Local Union No. 311, AFL–CIO. Cases 5–CA–26085 and 5–RC–14305

April 7, 1998

DECISION AND ORDER

BY MEMBERS FOX, HURTGEN, AND BRAME

On September 30, 1997, Administrative Law Judge Karl H. Buschmann issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel and the Charging Party filed cross-exceptions and supporting briefs.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions, as modified, and to adopt the recommended Order as modified.[2]

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified below and orders that the Respondent, Complete Carrier Services, Inc., Baltimore, Maryland, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified by adding the following:

IT IS FURTHER ORDERED that the election in Case 5–RC–14305 is set aside and that the petition in that case is dismissed.

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

In adopting the judge's findings that the Respondent violated Sec. 8(a)(1) of the Act by implementing preelection retroactive pay raises and other benefits, we find it unnecessary to pass on his related finding that these acts also violate Sec. 8(a)(3), as this additional finding would not affect the remedial order.

Inasmuch as the judge relied upon *Skyline Distributors*, 319 NLRB 270 (1995), only as support for the 8(a)(3) conclusions, Members Hurtgen and Brame find it unnecessary to pass on that case as support for the appropriateness of a bargaining order.

[2] The judge inadvertently failed to include language in his recommended Order setting aside the election in Case 5–RC–14305. We insert that language in this Order.

We have modified the administrative law judge's posting paragraph to reflect the proper date on which the unfair labor practice occurred. *Excel Container*, 325 NLRB No. 14 (Nov. 7, 1997).

Stefan Jan Marculewicz, Esq., for the General Counsel.

Charles E. Sykes, Esq. (Bruckner & Sykes, L.L.P.), of Houston, Texas, for the Respondent.

H. Victoria Hedian, Esq. (Abato, Rubenstein & Abato, P.A.), of Baltimore, Maryland, for the Charging Party.

DECISION

STATEMENT OF THE CASE

KARL H. BUSCHMANN, Administrative Law Judge. This case was tried in Baltimore, Maryland, on January 15 and 16, 1997, on a complaint dated September 24, 1996, alleging that the Respondent, Complete Carrier Services, Inc., violated Section 8(a)(1) and (3) of the National Labor Relations Act (the Act). The charges were filed by the International Brotherhood of Teamsters, Local Union No. 311, AFL–CIO (the Union) on March 25, 1996, as amended on April 18, 1996. The Respondent's answer admitted the jurisdictional allegations in the complaint, and it denied the substantive allegations.

Pursuant to a stipulated election agreement, an election was held on March 22, 1996, in a unit of 10 drivers. With two ballots challenged, the Union lost by a vote of six to two.

The alleged violations of the Act, which occurred prior to the election, include threats of physical violence and loss of jobs, the solicitation of grievances, coercive interrogations, promises of benefits and pay raises, the granting of pay raises and benefits and the discharge of a union supporter. Alleging that these violations eroded the employees' support of the Union after 9 of the 10 employees had signed union authorization cards, the General Counsel and the Charging Party are requesting the imposition of a bargaining order in addition to the traditional remedies.

On the entire record in this case[1] and after consideration of the briefs filed by the General Counsel, the Charging Party, and the Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

Complete Carrier Services, Inc. is a Delaware corporation with an office and place of business in Baltimore, Maryland. With gross revenues in excess of $50,000 from its interstate operations, the Respondent is admittedly an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

The Charging Party, International Brotherhood of Teamsters, Local Union No. 311, AFL-CIO (the Union), is admittedly a labor organization within the meaning of Section 2(5) of the Act.

II. FACTS

The Respondent, located in Baltimore, Maryland, operates as a labor leasing firm which supplies drivers to a company

[1] The General Counsel's motion to reopen the record for the receipt of certain subpoenaed documents, i.e., Respondent's payroll records, is granted. The authenticity of the documents is not at issue, they were produced by the Respondent. The documents are relevant to the issue of Respondent's past practice in granting pay raises. The documents would have been admitted into the record, had they been produced in a timely manner.

known as Matlack, Inc. In late 1995, one of Respondent's drivers, Victor Paniagua, who was hired in June 1995, contacted the Union. He distributed union authorization cards and submitted the signed cards to the Union which filed a petition for representation election on January 29, 1996 (G.C. Exh. 1-A).

The unit was defined in the stipulated election agreement as

> All full-time and regular part-time truck drivers employed by the Employer at its Baltimore, Maryland facility; excluding guards, clericals and supervisors as defined in the Act.

The election was held on March 22, 1996. It showed that the Union had lost the support of the drivers. According to the General Counsel and the Charging Party, the Respondent had engaged in certain conduct which unlawfully interfered with the employees' rights.

Several weeks after the filing of the petition on January 29, Victor Paniagua had received a subpoena at his work in connection with the representation case. On February 9, he informed his supervisor, Lew Benson, about the subpoena and also mentioned that he had been passing out union cards to the employees. According to Paniagua, Benson got red in his face, raised his voice, and said, ''Don't forget that Mr. John Solewin is from New Jersey and somebody might come and knock on my door'' (Tr. 166). Benson also said, ''[d]on't forget that I really wasn't a driver for the company yet, and I had to go for training. Okay. And when I finished my training I would be on my own, more possibly I would have a—some kind of mistake at work. And that would be my last day of work'' (Tr. 167).

Benson conceded in his testimony that he warned Paniagua about the loss of his job, but he could not recall to what problems on the job he had referred when he spoke to the employee.

Paniagua was called into the office by John Solewin, Respondent's owner and president, during the middle of February. On that occasion, Solewin asked him initially what his problem was and why the employees went to the unions instead of coming to him directly. Paniagua replied that in 1995, Solewin had promised the drivers a raise and when the raises did not materialize, the employees turned to the Union for help. Paniagua suggested that the drivers were not satisfied with the increase in pay discussed before but that they now wanted a larger raise. He proposed an increase to $12.50 per hour and 29 cents per mile.

Solewin increased the drivers' pay and announced it by memorandum of February 28, 1996 (G.C. Exh. 7). The new rates reflected an hourly increase of $1.25 to an hourly rate of $12.50 for drivers and an increased mileage rate of 29 cents for drivers after a year of service and 30 cents for those with 2 years' service. These rates were in line with the suggestions made by Paniagua in his earlier conversation with Solewin.

Perry Covert, employed as a driver since February 1995, was also a union supporter who had signed a union card on January 16, 1996 (G.C. Exh. 17). Covert had a conversation on March 5, 1996, with Solewin in the office of Lew Benson, Covert's supervisor. Covert testified as follows about that conversation (Tr. 125):

> The conversation went, Mr. Solewin basically asked me what I thought about the Union and which way did I plan to vote. Was I for or against. I told him I planned to vote for the Union. After that he just basically went on to say that he hoped that I would think about my vote. And that he would rather the Union not come in because he sort of wanted to keep things at the terminal the way they were. I guess it was more like a family environment—you know—small, and not dealing with a big Union. He just wanted to keep things the way they were pretty much.

Although Solewin admitted to a conversation with Covert about the Union, Solewin denied asking whether Covert signed the union card. Solewin appeared confused and unreliable about his conversations with Covert. I accordingly credit Covert's version of the events.

Shortly after the conversation with Solewin, Covert also spoke to Benson who showed him a report received from Rhone-Poulenc, one of Respondent's customers. According to the report, Covert had caused an incident at around noon on March 5 at the customer's facility in Baltimore. According to the testimony of Steve Patras, materials manager for Rhone-Poulenc, Covert had made a delivery that day at a time when its own employees picketed the facility. Covert was reported to be speeding as he left the plant and using foul language.

Covert testified that he encountered a problem making a delivery to Rhone-Poulenc and as he made a turn through the gate, the following happened (Tr. 129); ''[t]he guard stopped me on my way out and said I was going a little too fast inside the plant, and that if it happened again that he wasn't going to allow me to come back inside the plant.'' Covert testified that he apologized to the guard and promised not to let it happen again.

Benson testified that he was instructed by Patras not to send Covert back to Rhone-Poulenc as a result of the incident. Patras who has no interest in the outcome of this case contradicted Benson's testimony. I accordingly credit Patras' version of the events.

Benson and Solewin proceeded to investigate the incident, because Rhone-Poulenc was considered a valued customer, comprising 75 percent of Respondent's business. They decided that Covert had been speeding and informed Covert that he was discharged. At a meeting on March 8, Solewin informed Covert that Rhone-Poulenc had requested not to send Covert to their facility. With 75 percent of the business at stake, Solewin said that the Respondent had insufficient work for him to remain employed. By letter of March 15, 1996, the Respondent confirmed the discharge ''for unsafe operation of a motor vehicle while visiting the Rhone-Poulenc plant'' (G.C. Exh. 4).

On March 9, the Respondent held a meeting with the drivers at the Comfort Inn to discuss a number of issues, in particular Solewin announced that the pay increase would be retroactive to January 1. At about the same time the Respondent posted the February 28 memorandum containing the details of the pay increase on the bulletin board with the added bold printed information that the increase would be retroactive to ''1/1/96'' (G.C. Exh. 11). Also discussed at the March 9 meeting was the Company's safety bonus program. The drivers were promised a payment of $250 every 6

months so long as they had driven without an accident. Solewin also discussed a pension plan, stating that he was in the process of establishing a 401(k) plan. Solewin spoke at the meeting about a recruitment bonus which would be paid to any driver who referred another driver who on hiring would remain with the Company for at least 6 months. He also promised the drivers uniforms. With respect to Covert, Solewin explained that its customer, Rhone-Poulenc, complained and did not want him on their premises. Solewin finally spoke about the Union saying that he had heard that the employees were to meet with the Union on the following day and warned that the Union was a big racket and that ''the Union will more likely run him out of business'' (Tr. 184).

On March 17, 5 days before the election, the Respondent held another meeting with the employees. The drivers initially saw a video concerning safety. Solewin then proceeded to speak about the Union. He testified that he used an outline, and spoke about the Union's finances, such as dues, gross receipts, salaries for union officials, and the amounts spent on members. He read from an NLRB hearing transcript involving a strike and Matlack's closing of its terminals. Solewin also offered a financial award for anyone in the group who would guess correctly the amount of pay the local union would return to their membership. Two employees won $20 in the raffle for guessing zero. Solewin implored the employees to vote against the Union and said that otherwise they would no longer be a family. At the conclusion of the meeting, Solewin told the employees that he would close the terminal if the employees voted for the Union.[2]

During the week before the election Paniagua had a brief conversation with Benson about the Union. Benson said that he was a little upset, because of the election and the Union. He said that he did not want to lose his job because Solewin would likely close the Company down and would not share with the Union.[3]

By letter of April 17, 1996, the Respondent informed Covert (G.C. Exh. 5): ''You are hereby offered reinstatement to your former job.'' Solewin testified that he wanted to avoid additional backpay because of the unfair labor practice case and also explained that he had obtained an additional customer.

III. DISCUSSION

The record, as summarized, shows that the Respondent engaged in some of the most serious and pervasive unfair labor practices, threats, interrogations, solicitation of grievances, and promises of benefits and pay raises in order to dissuade the employees from their support of the Union. The record shows that 9 of the 10 drivers had signed union cards in early January 1996, including Paniagua, Covert, Edward Thomason, and Roland Howstrom who gave testimony in this case (G.C. Exhs. 12, 16, 17, 19). The signed union authorized cards of the other five drivers are part of the record in this case (G.C. Exhs. 13, 14, 15, 18, 20). The Company's president, John Solewin, had been informed by Paniagua that all the drivers had signed union cards. With a clear expression of the employees' sentiment in favor of the Union it filed a representation petition on January 29, 1996. The Stipulated Election Agreement dated February 16, provided for the election to be held on March 22, 1996.

Considering the solid union support, the election result was a surprising defeat for the Union when six votes (two votes were challenged) were cast against the Union. The record clearly shows that Respondent's conduct went beyond a legitimate antiunion campaign and eroded the employee sentiment in favor of the Union. This scenario presents the issue of a bargaining order. *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969).

Initially, the record shows that the principal union activist Paniagua was not a clerical employee excluded from the unit of drivers, but a truckdriver who, as a result of an accidental injury was assigned to light duty, which included some clerical tasks. With a 15-year background as a truckdriver, Paniagua was hired in that capacity on June 25, 1995, and worked until July 8, 1995. As a result of the accident he did not return until October 1995 when he worked on light-duty tasks until June 1996 when he returned to work as a full-time driver. His light-duty work consisted of picking up the mail, answering the telephone, handling fuel receipts, hotel receipts, driver manifests, and log books. He was also required to do sweeping and cleaning duties.

According to the General Counsel and the Charging Party, Respondent's statements to Paniagua on February 9, constituted threats of physical violence and loss of job. Benson's threats were clearly union related. Paniagua had just informed Benson about the receipt of the union subpoena and his signature on a union card, when Benson warned him not to forget that Solewin was from New Jersey and that somebody might knock at his door. Benson also warned Paniagua that he would surely make a mistake someday and that day would be his last.

These threats were sufficiently intimidating to interfere with the employee's Section 7 rights. The remarks were too ambiguous, however, to characterize them as threats of physical harm. Clearly, they threatened the employee with the loss of his job and unspecified reprisals as a result of an unwelcome visit to his home, in violation of Section 8(a)(1) of the Act.

The February 14 meeting between Paniagua and Solewin resulted in Respondent's solicitation of grievances from employees. Respondent's president directly asked the leading union supporter why the employees turned to the Union instead of coming to him. Paniagua dutifully replied that the failure to keep his promise for pay raises prompted the employees' interest in the Union. Solewin promised to consider the issue after Paniagua suggested the exact amounts of the pay increase. This set the stage for Respondent's implementation of a retroactive pay increase of the size suggested by Paniagua. Clearly, the record supports the allegation in the complaint that the Respondent unlawfully solicited the employees' grievances in violation of Section 8(a)(1) of the Act.

Not only did the Respondent announce this pay raise to the employees by memorandum on February 28, but it also posted a subsequent memorandum in March showing that the raise was retroactive. In short, the Respondent twice demonstrated to the employees during the critical period before

[2] Solewin testified that he did not make these threats, but three employees consistently testified that these remarks were made. I accordingly credit their recollection of the events.

[3] Benson testified that he told Paniagua that the terminal could possibly close as a result of lost business due to a strike. I have credited Paniagua's more reliable recollection.

the election the Company's generous efforts to gain their support. Such conduct has long been regarded as an unfair labor practices in violation of Section 8(a)(1) and (3), particularly where as here the benefit was implemented during the preelection period. *Southgate Village*, 319 NLRB 916 (1995).

The Respondent's efforts to show that the pay raises were made in accordance with past practice is entirely unpersuasive and not supported by the record. Conceding that no wage adjustments were made is 1992, 1993, and 1994, the Respondent argues that pay increases were effectuated in 1991 and in 1995 on a retroactive basis. Solewin testified to that effect, but the documentary evidence in the record does not support his testimony.

In order to show a past practice of retroactive pay raises, the Respondent referred to several memoranda, dated March 6, 1996, issued to drivers at the Richmond, Virginia, and New Castle, Delaware terminals that retroactive pay raises were granted there. The Company also relies on documents in the record such as payroll records that pay raises were given to employees in 1991. However, my review of these documents does not show that pay raises in 1991 were retroactive, nor do the pay raises given in other terminals, virtually simultaneously with the pay raises at issue here, establish a pattern of past practice. Indeed the record shows that no pay raises were given from 1992 to 1994. I accordingly do not credit Solewin's testimony or the Respondent's argument that these benefits given to the drivers were part of an established pattern. To the contrary, the record shows conclusively that the raises and the benefits which were effectuated following the March 9 meeting were intended and did interfere with the employees' Section 7 rights. Not only did Solewin act on the responses which he solicited from Paniagua, but the timing of this promise of increased pay as well as the granting of pay and benefits point to the Respondent's obvious purpose. In addition, the Respondent promised other benefits at the March 9, 1996 meeting. He explained safety bonuses, recruitment bonuses, and promised to implement a pension plan. Solewin also promised uniforms for his employees, a benefit long sought by the drivers. The Respondent's sudden generosity had the desired effect on the election. Respondent's conduct in this regard violated Section 8(a)(1) and (3) of the Act. *Skyline Distributors*, 319 NLRB 270, 279 (1995).

The Respondent violated Section 8(a)(1) of the Act by repeatedly threatening the employees that their union support would result in the closure of the plant. In meetings on March 9 and 17 only a few days before the election, the Company's owner and highest executive made these unequivocal threats. Benson repeated the threat on March 20, 1996. Benson's additional remark that Solewin would not share with the Union conveyed the additional threat that bargaining would be futile. These statements are considered to be the most serious and destructive of all threats. *Horizon Air Services*, 272 NLRB 243 (1984); *Overnight Transportation Co.*, 296 NLRB 669 (1989). Would the average employee support the Union when faced with these options, the fear of losing his job on the one hand, and generous pay raises, implementation of a retirement plan, and other incentives on the other.

Whether the discharge of Perry Covert was motivated by union animus and whether he would have lost his job even in the absence of any union considerations, is a close issue. Covert was a known union supporter and the Respondent exaggerated the reason for his discharge. On the other hand, Covert had incurred prior driving violations, caused an incident at Rhone-Poulenc, a major customer of the Respondent.

Covert had been employed since February 1995, and signed a union-authorization card on January 16, 1996. He testified about the conversation on March 5 where Solewin asked Covert what he thought of the Union and whether he would vote for or against the Union. Solewin told him that he did not want the Union. Yet Covert disclosed his support of the Union.

On the same day, shortly after that conversation, Benson showed Covert a written report prepared by a security guard of Rhone-Poulenc (R. Exh. 4). The report, dated March 5, 1996, entitled ''Incident Report'' describes in detail the course taken by Covert's truck at Rhone-Poulenc's facility and states in pertinent part:

> Covert departed the south gate . . . at what appeared to be a high rate of speed . . . then entered into the main gate area at an excessive rate of speed, coming within a short distance of three strikers that were peacefully walking their picket line. . . stopped the truck and voiced my concerns as to the actions, behavior and flagrant disregard for life and property . . . Mr. Covert stated that he understood and that he was sorry for what he had done.

The reported also observed that the strikers' calm attitude changed after the incident. Steve Patras, materials manager for Rhone-Poulenc, called Benson and orally reported the incident and added that Covert had used foul language towards an acting supervisor.

Benson and Solewin proceeded to investigate the matter and met with Covert on March 8, informing Covert that he was discharged because of the incident and because their customer, Rhone-Poulenc, had requested not to send Covert back to their facility. The Respondent sent Covert a letter of termination, dated March 15, 1996 (G.C. Exh. 4):

> Please be advised that on Friday, March 8, 1996, a meeting was held in Baltimore, MD as part of the investigation into the facts regarding the events of your trip that originated on Monday, March 4, 1996, and while operating within the Rhone-Poulenc plant in Baltimore, MD. Present at this meeting were: Lew Benson, Terminal Manager; yourself, Perry Covert; and myself, John Solewin.
>
> Specifically, on Monday March 4, 1996, you were assigned a load from Rhone-Poulenc, Baltimore, MD to Cosmair, Inc., Clark, N.J. with tractor #2072, and manifest #758243. During this trip you dropped trailer #2072 for loading by Rhone-Poulenc. Apparently, you were confronted by plant security regarding your disregard for safety while operating a motor vehicle within their plant. Furthermore, this is the second documented incident and you've had at this plant in as many weeks.
>
> As you know, our company instructs each driver to perform their duties in a safe and professional manner at all times. Obviously, in this situation you failed to perform as instructed. Your failure to follow instruc-

> tions jeopardizes not only the future of this company, but puts at risk the security of every person in this firm.
>
> After completing our investigation into all of the facts of this matter, including a careful review of your work record, as well as your own confirmation of the incident, our company has not [sic] alternative than to terminate your employment effective immediately at the conclusion of the above meeting for unsafe operation of a motor vehicle while visiting the Rhone-Poulenc plant.

The letter does not make any mention of Rhone-Poulenc's request not to send Covert to its facility which is the principal disagreement between the parties. Covert admitted having been cited for two prior traffic violations, one for speeding and one for an improper lane change. It is accordingly clear that the Respondent had a reasonable cause to discipline Covert.

Respondent's exaggerated justification for the discharge, that the customer had barred Covert from the facility may be indicative of a pretext. Covert was a known union supporter who was interrogated by the Respondent about the Union, and then discharged. Granting that the Employer inflated the seriousness of the incident by claiming that Covert had been barred by its principal customer, there is no dispute, however, that Covert committed a serious act of misconduct which was preceded by a similar incident involving the same customer 2 weeks prior. Covert admitted that the guard had warned him that ''if it happened again that he wasn't going to allow me to come back inside the plant'' (Tr. 129). The Respondent's exaggeration was therefore not far off the mark; neither does the record show that the Employer had treated other employees differently under similar circumstances. In the absence of any evidence of disparate treatment, it cannot be gainsaid that Covert should have been disciplined or that the discharge was an appropriate discipline. I accordingly dismiss the 8(a)(3) and (1) allegations of an unlawful discharge.

The Respondent's antiunion campaign effectively destroyed the employees' union support within less than 3 months. From a sound majority of 9 out of 10 drivers[4] the Union's support eroded among the employees to only two votes on March 22, 1996. The record shows that the nine union authorization cards were properly solicited and signed by the employees between January 1 and 18, 1996. Paniagua explained why he and others listed the employers as Matlack and Complete Carrier because of the close working relationship between the two entities. The voter eligibility list provided by Respondent's letter of February 20, 1996, shows 11 employees (G.C. Exh. 2(c)). The 10th employee, Thornes Wingrove, worked only 1 day and was excluded on the *Excelsior* list (G.C. Exh. 2(a)). In short there is no record evidence which suggests any deficiency in the card majority. The causal relationship between Respondent's unlawful conduct during the period in February and March and the complete erosion of the employees' union support is unequivocally clear. Yet the law of the land provides for the American worker to have an unfettered choice to join a union or not to join a union.

[4] Victor Paniagua, Elwood Blackwell, Robert Madigan Jr., Donald Beck, Edward Thomason, Perry Covert, James Long, Roland Howstrom, and Dale Root (G.C. Exhs. 12–20).

The record in this case, showing violations of Section 8(a)(1) and (3), meets the most stringent court test in support of a bargaining order. The Employer's misconduct was widespread and far reaching, and the pervasive misconduct had a demonstrable effect of dissolving the majority once possessed by the Union. See, *Be-Lo Stores v. NLRB*, 126 F.3d (4th Cir. 1997); and *NLRB v. Appletree Chevrolet, Inc.*, 671 F.2d 838 (4th Cir. 1982). The violations were committed by the Company's chief executive and were felt by the entire bargaining unit. Under these circumstances the prospect of erasing the effects of Respondent's unfair labor practices and of ensuring a fair election in the unit by the use of traditional remedies is impossible. The purpose of the Act and the employee sentiment expressed through authorization cards can only be served by a bargaining order. *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969); and *NLRB v. Air Products & Chemicals*, 717 F.2d 141, 144 (4th Cir. 1983).

CONCLUSIONS OF LAW

1. Complete Carrier Services, Inc. is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. International Brotherhood of Teamsters, Local Union 311, AFL–CIO is a labor organization within the meaning of Section 2(5) of the Act.

3. The following employees of Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time truck drivers employed by the Employer at its Baltimore, Maryland facility; excluding office clerical employees, owner-operators (leased operators), guards, and supervisors as defined in the Act.

4. The Respondent's bargaining obligation commenced on January 29, 1996, when the Union filed a petition for an election in the unit described above.

5. By engaging in the following conduct the Respondent violated Section 8(a)(1) of the Act:

(a) Threatening an employee with job loss and unspecified reprisals in connection with a visit to the employee's home, because of his union support.

(b) Soliciting grievances from employees in order to dissuade them from their union support.

(c) Promising pay raises and higher mileage rates in order to dissuade the employees from supporting the Union.

(d) Promising to make the pay raises retroactive and by promising additional benefits in order to dissuade the employees from supporting the Union.

(e) Coercively interrogating employees about their union support.

(f) Threatening employees that the Employer would close the facility, if the employees selected the Union as their bargaining representative.

(g) Telling employees that it would not negotiate with the Union and repeating the threats that the employer would close the facility if the employees selected the Union as their bargaining representative.

6. By implementing the announced retroactive pay raises and other benefits, the Respondent violated Section 8(a)(1) and (3) of the Act.

THE REMEDY

Having found that Respondent engaged in certain unfair labor practices, an order shall be proposed that it cease and desist therefrom and take affirmative actions necessary to effectuate the policies of the Act. The effects of Respondent's unfair labor practices will have an enduring impact on the unit that is unlikely to be dissipated by application of the traditional remedies. The employees' sentiment in favor of the Union was expressed through the cards. Accordingly, on request, the Respondent shall be ordered to recognize and bargain in good faith with the Union as the exclusive representative of its maintenance employees, and if consensus is reached, to execute an agreement.

I also shall recommend that the Respondent post a notice to employees in which it promises not to engage in like or related conduct that interferes with, restrains, or coerces employees in the exercise of rights guaranteed by Section 7 of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[5]

ORDER

The Respondent, Complete Carrier Services, Inc., Baltimore, Maryland, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Threatening an employee with job loss and unspecified reprisals in connection with a visit to the employee's home, because of his union support.

(b) Soliciting grievances from employees in order to dissuade them from their union support.

(c) Promising pay raises and higher mileage rates in order to dissuade the employees from supporting the Union.

(d) Promising to make the pay raises retroactive and by promising additional benefits in order to dissuade the employees from supporting the Union.

(e) Coercively interrogating employees about their union support.

(f) Threatening employees that the Employer would close the facility, if the employees selected the Union as their bargaining representative.

(g) Telling employees that it would not negotiate with the Union and repeating the threats that the Employer would close the facility if the employees selected the Union as their bargaining representative.

(h) In any like or related manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with International Brotherhood of Teamsters, Local Union No. 311, AFL–CIO as the exclusive representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time truck drivers employed by the Employer at its Baltimore, Maryland facility, excluding office clerical employees, owner-operators (leased operators), guards, and supervisors as defined in the Act.

(b) Within 14 days after service by the Region, post at its facilities in Baltimore, Maryland, copies of the attached notice marked ''Appendix.''[6] Copies of the notice on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 14, 1996.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

[5] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[6] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize

To form, join, or assist any union

To bargain collectively through representatives of their own choice

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT threaten employees with job loss and unspecified reprisals in connection with a visit to an employee's home, because of their union support.

WE WILL NOT solicit grievances from employees in order to dissuade them from their union support.

WE WILL NOT promise pay raises and higher mileage rates in order to dissuade the employees from supporting the Union.

WE WILL NOT promise to make the pay raises retroactive and promise additional benefits in order to dissuade the employees from supporting the Union.

WE WILL NOT coercively interrogate employees about their union support.

WE WILL NOT threaten employees that the employer would close the facility, if the employees selected the Union as their bargaining representative.

WE WILL NOT tell employees that the Company would not negotiate with the Union nor repeat the threats that the Employer would close the facility if the employees selected the Union as their bargaining representative.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL recognize and bargain with the Union as the collective-bargaining representative in the following unit:

> All full-time and regular part-time trucks employed by the Employer at its Baltimore, Maryland facility; excluding office clerical employees, owner-operators (leased operators), guards, and supervisors as defined in the Act.

COMPLETE CARRIER SERVICES, INC.